

such credit allowable, the unpaid portion of the tax attributable to such difference will be collected not as a deficiency but as an underpayment of the tax shown on the return.

(e) This section may be illustrated by the following examples:

Example 1. The amount of income tax shown by the taxpayer upon his return for the calendar year 1954 was \$1,600. The taxpayer had no amounts previously assessed (or collected without assessment) as a deficiency. He claimed a credit in the amount of \$2,050 for tax withheld at source on wages under section 3402, and a refund of \$450 (not a rebate under section 6211) was made to him as an overpayment of tax for the taxable year. It is later determined that the correct tax for the taxable year is \$1,850. A deficiency of \$250 is determined as follows:

Tax imposed by subtitle A	\$1,850	
Tax shown on return	\$1,600	
Tax previously assessed (or collected without assessment) as a deficiency	None	
Total	1,600	
Amount of rebates made	None	
Balance	51,600	
Deficiency	250	

Example 2. The taxpayer made a return for the calendar year 1954 showing a tax of \$1,250 before any credits for tax withheld at the source. He claimed a credit in the amount of \$800 for tax withheld at source on wages under section 3402 and \$60 for tax paid at source under section 1451 upon interest on bonds containing a tax-free covenant. The taxpayer had no amounts previously assessed (or collected without assessment) as a deficiency. The district director determines that the 2 percent tax paid at the source on tax-free covenant bonds is \$40 instead of \$60 as claimed by the taxpayer and that the tax imposed by subtitle A is \$1,360 (total tax \$1,400 less \$40 paid at source on tax-free covenant bonds). A deficiency in the amount of \$170 is determined as follows:

Tax imposed by subtitle A (\$1,400 minus \$40)	\$1,360	
Tax shown on return (\$1,250 minus \$60)	\$1,190	
Tax previously assessed (or collected without assessment) as a deficiency	None	
Total	1,190	
Amount of rebates made	None	
Balance	1,190	
Deficiency	170	

(f) As used in section 6211, the term *rebate* means so much of an abatement, credit, refund, or other repayment as is made on the ground that the income tax imposed by subtitle A, the estate tax imposed by chapter 11, the gift tax

imposed by chapter 12, or the excise tax imposed by chapter 41, 42, 43, or 44, is less than the excess of (1) the amount shown as the tax by the taxpayer upon the return increased by the amount previously assessed (or collected without assessment) as a deficiency over (2) the amount of rebates previously made. For example, assume that the amount of income tax shown by the taxpayer upon his return for the taxable year is \$600 and the amount claimed as a credit under section 31 for income tax withheld at the source is \$900. If the district director determines that the tax imposed by subtitle A is \$600 and makes a refund of \$300, no part of such refund constitutes a "rebate" since the refund is not made on the ground that the tax imposed by subtitle A is less than the tax shown on the return. If, however, the district director determines that the tax imposed by subtitle A is \$500 and refunds \$400, the amount of \$100 of such refund would constitute a rebate since it is made on the ground that the tax imposed by subtitle A (\$500) is less than the tax shown on the return (\$600). The amount of such rebate (\$100) would be taken into account in arriving at the amount of any deficiency subsequently determined.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7102, 36 FR 5498, Mar. 24, 1971; T.D. 7575, 43 FR 58817, Dec. 18, 1978; T.D. 7838, 47 FR 44249, Oct. 7, 1982; T.D. 8628, 60 FR 62212, Dec. 5, 1995]

§ 301.6212-1 Notice of deficiency.

(a) *General rule.* If a district director or director of a service center (or regional director of appeals), determines that there is a deficiency in respect of income, estate, or gift tax imposed by subtitle A or B, or excise tax imposed by chapter 41, 42, 43, or 44, of the Code, such official is authorized to notify the taxpayer of the deficiency by either registered or certified mail.

(b) *Address for notice of deficiency—(1) Income, gift, and chapter 41, 42, 43, and 44 taxes.* Unless the district director for the district in which the return in question was filed has been notified under the provisions of section 6903 as to the existence of a fiduciary relationship, notice of a deficiency in respect of income tax, gift tax, or tax imposed

by chapter 41, 42, 43, or 44 shall be sufficient if mailed to the taxpayer at his last known address, even though such taxpayer is deceased, or is under a legal disability, or, in the case of a corporation, has terminated its existence.

(2) *Joint income tax returns.* If a joint income tax return has been filed by husband and wife, the district director (or assistant regional commissioner, appellate) may, unless the district director for the district in which such joint return was filed has been notified by either spouse that a separate residence has been established, send either a joint or separate notice of deficiency to the taxpayers at their last known address. If, however, the proper district director has been so notified, a separate notice of deficiency that is a duplicate original of the joint notice, must be sent by registered mail prior to September 3, 1958, and by either registered or certified mail on and after September 3, 1958, to each spouse at his or her last known address. The notice of separate residences should be addressed to the district director for the district in which the joint return was filed.

(3) *Estate tax.* In the absence of notice, under the provisions of section 6903 as to the existence of a fiduciary relationship, to the district director for the district in which the estate tax return was filed, notice of a deficiency in respect of the estate tax imposed by chapter 11, subtitle B, of the Code shall be sufficient if addressed in the name of the decedent or other person subject to liability and mailed to his last known address.

(c) *Further deficiency letters restricted.* If the district director or director of a service center (or regional director of appeals) mails to the taxpayer notice of a deficiency, and the taxpayer files a petition with the Tax Court within the prescribed period, no additional deficiency may be determined with respect to income tax for the same taxable year, gift tax for the same "calendar period" (as defined in § 25.2502-1(c)(1)), estate tax with respect to the taxable estate of the same decedent, chapter 41, 43, or 44 tax of the taxpayer for the same taxable year, section 4940 tax for the same taxable year, or chapter 42 tax of the taxpayer (other than under

section 4940) with respect to the same act (or failure to act) to which such petition relates. This restriction shall not apply in the case of fraud, assertion of deficiencies with respect to any qualified tax (as defined in paragraph (b) of § 301.6361-4) in respect of which no deficiency was asserted for the taxable year in the notice, assertion of deficiencies with respect to the Federal tax when deficiencies with respect to only a qualified tax (and not the Federal tax) were asserted for the taxable year in the notice, assertion of greater deficiencies before the Tax Court as provided in section 6214(a), mathematical errors as provided in section 6213(b)(1), termination assessments in section 6851 or 6852, or jeopardy assessments as provided in section 6861(c). Solely for purposes of applying the restriction of section 6212(c), a notice of deficiency with respect to second tier tax under chapter 43 shall be deemed to be a notice of deficiency for the taxable year in which the taxable event occurs. See § 53.4963-1(e)(7)(iii) or (iv) for the date on which the taxable event occurs.

[32 FR 15241, Nov. 3, 1967, as amended by T.D. 7238, 37 FR 28739, Dec. 29, 1972; T.D. 7579, 43 FR 59360, Dec. 20, 1978; T.D. 7838, 47 FR 44249, Oct. 7, 1982; T.D. 7910, 48 FR 40376, Sept. 7, 1983; T.D. 8084, 51 FR 16305, May 2, 1986; T.D. 8628, 60 FR 62212, Dec. 5, 1995]

§ 301.6212-2 Definition of last known address.

(a) *General rule.* Except as provided in paragraph (b)(2) of this section, a taxpayer's last known address is the address that appears on the taxpayer's most recently filed and properly processed Federal tax return, unless the Internal Revenue Service (IRS) is given clear and concise notification of a different address. Further information on what constitutes clear and concise notification of a different address and a properly processed Federal tax return can be found in Rev. Proc. 90-18 (1990-1 C.B. 491) or in procedures subsequently prescribed by the Commissioner.

(b) *Address obtained from third party—*
(1) *In general.* Except as provided in paragraph (b)(2) of this section, change of address information that a taxpayer provides to a third party, such as a payor or another government agency,